



January 30, 2002

SENATE BILL No. 29

DIGEST OF SB 29 (Updated January 28, 2002 12:06 PM - DI 101)

Citations Affected: IC 8-1.

Synopsis: Proposed amendment to SB 29. Clean coal and energy projects. Encourages: (1) new energy generating facilities in Indiana that are fueled using Illinois Basin coal resources; (2) projects to develop alternative energy sources, including renewable energy projects; and (3) the purchase by energy utilities of fuels produced by coal gasification facilities in Indiana. Directs the IURC to encourage clean coal and energy projects through financial incentives. Directs the state utility forecasting group to conduct an annual study on the use, availability, and economics of using renewable energy resources in Indiana and to submit a report of its findings to the IURC.

Effective: Upon passage.

**Weatherwax, Lanane, Server,
Waterman, Blade**

November 20, 2001, read first time and referred to Committee on Rules and Legislative Procedure.

January 17, 2002, amended; reassigned to Committee on Energy and Economic Development.

January 29, 2002, amended, reported favorably — Do Pass.

SB 29—LS 6216/DI 13+



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January 30, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 29

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-8.8 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 8.8. Utility Generation and Clean Coal Technology**

5 **Sec. 1. (a) The general assembly makes the following findings:**

6 **(1) Growth of Indiana's population and economic base has**
7 **created a need for new energy generating facilities in Indiana.**

8 **(2) The development of a robust and diverse portfolio of**
9 **energy generating capacity, including the use of renewable**
10 **energy resources, is needed if Indiana is to continue to be**
11 **successful in attracting new businesses and jobs.**

12 **(3) Indiana has considerable natural resources that are**
13 **currently underutilized and could support development of**
14 **new energy generating facilities at an affordable price.**

15 **(4) Certain regions of the state, such as southern Indiana,**
16 **could benefit greatly from new employment opportunities**
17 **created by development of new energy generating facilities**

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utilizing the plentiful supply of coal from the geological formation known as the Illinois basin.

(5) Technology can be deployed that allows high sulfur coal from the geological formation known as the Illinois Basin to be burned efficiently while meeting strict state and federal air quality limitations. Specifically, the state should encourage the use of advanced clean coal technology, such as coal gasification.

(6) It is in the public interest for the state to encourage the construction of new energy generating facilities that increase the in-state capacity to provide for current and anticipated energy demand at a competitive price.

(b) The purpose of this chapter is to enhance Indiana's energy security and reliability by ensuring all of the following:

(1) Indiana's energy generating capacity continues to be adequate to provide for Indiana's current and future energy needs, including the support of the state's economic development efforts.

(2) The vast and underutilized coal resources of the Illinois Basin are used as a fuel source for new energy generating facilities.

(3) The electric transmission system within Indiana is upgraded to distribute additional amounts of electricity more efficiently.

(4) Jobs are created as new energy generating facilities are built in regions throughout Indiana.

Sec. 2. As used in this chapter, "clean coal and energy projects" means any of the following:

(1) New energy generating facilities that are fueled primarily by coal or gases derived from coal from the geological formation known as the Illinois Basin, including any of the following:

(A) Projects that employ the use of clean coal technology.

(B) Projects to provide scrubber technology for existing energy generating plants.

(C) Projects to provide electric transmission facilities.

(2) Projects to develop alternative energy sources, including renewable energy projects.

(3) The purchase of fuels produced by a coal gasification facility.

Sec. 3. As used in this chapter, "clean coal technology" has the meaning set forth in IC 8-1-8.7-1.



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1 **Sec. 4.** As used in this chapter, "coal gasification facility" means
 2 a facility in Indiana that uses a manufacturing process that
 3 converts coal into a clean gas that can be used as a fuel to generate
 4 energy.

5 **Sec. 5.** As used in this chapter, "costs associated with qualified
 6 utility system property" means capital, operation, maintenance,
 7 depreciation, tax costs, and financing costs of or for qualified
 8 utility system property.

9 **Sec. 6.** As used in this chapter, "eligible business" means an
 10 energy utility (as defined in IC 8-1-2.5-2) that:

- 11 (1) proposes to construct, repower, or acquire a new energy
 12 generating facility;
- 13 (2) undertakes a project to develop alternative energy sources,
 14 including renewable energy projects; or
- 15 (3) purchases fuels produced by a coal gasification facility.

16 **Sec. 7.** As used in this chapter, "group" refers to the forecasting
 17 group established by IC 8-1-8.5-3.5.

18 **Sec. 8. (a)** As used in this chapter, "new energy generating
 19 facility" refers to a facility that satisfies all of the following:

- 20 (1) The facility is a:
 21 (A) newly constructed, newly repowered, or newly
 22 acquired energy generation plant; or
 23 (B) newly constructed generation capacity expansion at an
 24 existing facility;
 25 dedicated primarily to serving Indiana retail customers.
- 26 (2) The acquisition, repowering, construction, or expansion of
 27 the facility was completed by an Indiana utility after July 1,
 28 2001.
- 29 (3) The facility has an aggregate rated electric generating
 30 capacity of at least one hundred (100) megawatts for all units
 31 at one (1) site or a generating capacity of at least four
 32 hundred thousand (400,000) pounds per hour of steam.

33 (b) The term includes the transmission lines and associated
 34 equipment that transfers energy from points of supply to points of
 35 delivery.

36 **Sec. 9.** As used in this chapter, "qualified utility system
 37 property" means any new energy generating facility used, or to be
 38 used, in whole or in part, on a utility system to provide retail
 39 energy service (as defined in IC 8-1-2.5-3) regardless of whether
 40 that service is provided under IC 8-1-2.5 or another provision of
 41 this article.

42 **Sec. 10. (a)** As used in this chapter, "renewable energy



resources" means alternative sources of renewable energy, including the following:

- (1) Energy from wind.
- (2) Solar energy.
- (3) Photovoltaic cells and panels.
- (4) Dedicated crops grown for energy production.
- (5) Organic waste biomass.
- (6) Hydropower from existing dams.

(b) The term does not include energy from the incinerations, burning, or heating of any of the following:

- (1) Waste wood.
- (2) Tires.
- (3) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.
- (4) Construction or demolition debris.

Sec. 11. (a) The commission shall encourage clean coal and energy projects by creating the following financial incentives for clean coal and energy projects:

- (1) The timely recovery of costs incurred during construction and operation of new energy generating facilities.
- (2) The authorization of up to three (3) percentage points on the overall rate of return that would otherwise be allowed to be earned on projects described in subdivision (1).
- (3) Financial incentives for the purchase of fuels produced by a coal gasification facility, including cost recovery and the incentive available under subdivision (2) for new energy generating facilities.
- (4) Financial incentives for projects to develop alternative energy sources, including renewable energy projects.
- (5) Other financial incentives the commission considers appropriate.

(b) An eligible business must file an application to the commission for approval of a clean coal and energy project under this section.

(c) The commission shall promptly review an application filed under this section for completeness. The commission may request additional information the commission considers necessary to aid in its review.

(d) The commission shall issue a preliminary determination of a project's eligibility for the financial incentives described in subsection (a) not later than ninety (90) days after the date of the application.



1 **Sec. 12. (a) The commission shall provide financial incentives to**
 2 **eligible businesses for new energy generating facilities in the form**
 3 **of timely recovery of the costs incurred in connection with the**
 4 **construction, acquisition, repowering, expansion, operation, or**
 5 **maintenance of the facilities.**

6 **(b) An eligible business seeking authority to timely recover the**
 7 **costs described in subsection (a) must apply to the commission for**
 8 **approval of a rate adjustment mechanism in the manner**
 9 **determined by the commission.**

10 **(c) An application must include the following:**

11 **(1) A schedule for the completion of construction, repowering,**
 12 **acquisition, or expansion of the new energy generating facility**
 13 **for which rate relief is sought.**

14 **(2) Copies of the most recent integrated resource plan filed**
 15 **with the commission.**

16 **(3) The amount of capital investment by the eligible business**
 17 **in the new energy generating facility.**

18 **(4) Other information the commission considers necessary.**

19 **(d) The commission shall allow an eligible business to recover**
 20 **the costs associated with qualified utility system property if the**
 21 **eligible business provides substantial documentation that the**
 22 **expected costs associated with qualified utility system property and**
 23 **the schedule for incurring those costs are reasonable and in the**
 24 **public interest.**

25 **(e) The commission shall allow an eligible business to recover**
 26 **the costs associated with the purchase of fuels produced by a coal**
 27 **gasification facility if the eligible business provides substantial**
 28 **documentation that the costs associated with the purchase are**
 29 **reasonable and in the public interest.**

30 **(f) A retail rate adjustment mechanism proposed by an eligible**
 31 **business under this section may be based on actual or forecasted**
 32 **data.**

33 **(g) The commission may consider approving a retail rate**
 34 **adjustment mechanism that complies with the provisions of this**
 35 **section. If forecast data is utilized, the retail rate adjustment**
 36 **mechanism must contain a reconciliation mechanism to correct for**
 37 **any variance between the forecasted costs and the actual costs.**

38 **Sec. 13. An eligible business shall file a monthly report with the**
 39 **department of commerce stating the following information:**

40 **(1) The amount of Illinois Basin coal, if any, purchased during**
 41 **the previous month for use in a new energy generating**
 42 **facility.**



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1 (2) The amount of any fuel produced by a coal gasification
2 facility and purchased by the eligible business during the
3 previous month.

4 (3) Any other information the department of commerce may
5 reasonably require.

6 Sec. 14. The group shall conduct an annual study on the use,
7 availability, and economics of using renewable energy resources in
8 Indiana. Each year, the group shall submit a report on the study to
9 the commission for inclusion in the commission's annual report to
10 the regulatory flexibility committee described in IC 8-1-2.5-9 and
11 IC 8-1-2.6-4. The report must include suggestions from the group
12 to encourage the development and use of renewable energy
13 resources and technologies appropriate for use in Indiana.

14 SECTION 2. An emergency is declared for this act.

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SENATE MOTION

Mr. President: I move that Senator Garton be removed as author of Senate Bill 29 and that Senator Weatherwax be substituted therefor.

GARTON

SENATE MOTION

Mr. President: I move that Senator Lanane be added as second author and Senators Server and Waterman be added as coauthors of Senate Bill 29.

WEATHERWAX

SENATE MOTION

Mr. President: I move that Senator Blade be added as coauthor of Senate Bill 29.

WEATHERWAX

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 29, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Energy and Economic Development.

(Reference is to SB 29 as introduced.)

GARTON, Chairperson

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COMMITTEE REPORT

Mr. President: The Senate Committee on Energy and Economic Development, to which was referred Senate Bill No. 29, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 7, delete "electric generating capacity" and insert **"energy generating facilities"**.

Page 1, line 9, delete "electric" and insert **"energy"**.

Page 1, line 9, delete "capacity" and insert **"capacity, including the use of renewable energy resources,"**.

Page 1, line 13, delete "electric power" and insert **"energy generating facilities"**.

Page 1, line 16, delete "electric generating plants" and insert **"new energy generating facilities"**.

Page 1, line 17, delete "Indiana coal." and insert **"coal from the geological formation known as the Illinois basin."**

Page 2, line 8, delete "electric" and insert **"energy"**.

Page 2, line 10, delete "electricity" and insert **"energy"**.

Page 2, line 12, after "security" insert **"and reliability"**.

Page 2, line 13, delete "electric" and insert **"energy"**.

Page 2, line 15, delete "electricity" and insert **"energy"**.

Page 2, line 18, delete "electric plants." and insert **"energy generating facilities."**

Page 2, line 22, delete "electric plants" and insert **"energy generating facilities"**.

Page 2, line 25, delete **"new electric"** and insert **"any of the following:**

(1) New energy".

Page 2, delete line 28.

Page 2, line 29, delete "(2)", begin a new line double block indented, and insert:

"(A)".

Page 2, delete lines 30 through 31.

Page 2, line 32, delete "(4)", begin a new line double block indented, and insert:

"(B)".

Page 2, line 34, delete "(5)", begin a new line double block indented, and insert:

"(C)".

Page 2, between lines 34 and 35, begin a new line block indented



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and insert:

"(2) Projects to develop alternative energy sources, including renewable energy projects.

(3) The purchase of fuels produced by a coal gasification facility."

Sec. 3. As used in this chapter, "clean coal technology" has the meaning set forth in IC 8-1-8.7-1.

Sec. 4. As used in this chapter, "coal gasification facility" means a facility in Indiana that uses a manufacturing process that converts coal into a clean gas that can be used as a fuel to generate energy."

Page 2, line 35, delete "3." and insert **"5."**

Page 2, line 39, delete "4." and insert **"6."**

Page 2, line 40, delete "that" and insert **"that :**

(1)".

Page 2, line 41, delete "electric" and insert **"energy"**.

Page 2, line 41, delete "facility." and insert **"facility;**

(2) undertakes a project to develop alternative energy sources, including renewable energy projects; or

(3) purchases fuels produced by a coal gasification facility."

Page 2, line 42, delete "5." and insert **"7."**

Page 3, line 2, delete "6." and insert **"8."**

Page 3, line 2, delete "electric" and insert **"energy"**.

Page 3, line 6, delete "electric" and insert **"energy"**.

Page 3, line 10, delete "or construction" and insert **"construction, or expansion"**.

Page 3, line 12, after "rated" insert **"electric"**.

Page 3, line 14, delete "site." and insert **"site or a generating capacity of at least four hundred thousand (400,000) pounds per hour of steam."**

Page 3, line 16, delete "electricity" and insert **"energy"**.

Page 3, line 18, delete "7." and insert **"9."**

Page 3, line 19, delete "electric" and insert **"energy"**.

Page 3, line 20, delete "to generate electricity".

Page 3, line 24, delete "8." and insert **"10."**

Page 3, delete line 29.

Page 3, line 30, delete "(4)" and insert **"(3)"**.

Page 3, line 31, delete "(5)" and insert **"(4)"**.

Page 3, line 32, delete "(6)" and insert **"(5)"**.

Page 3, line 33, delete "(7) Hydropower." and insert **"(6) Hydropower from existing dams."**

Page 3, line 41, delete "9." and insert **"11."**



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Page 4, line 1, delete "the construction and operation of" and insert **"clean coal and energy"**.

Page 4, line 3, delete "operation." and insert **"operation of new energy generating facilities."**

Page 4, line 4, delete "hundred (300) basis" and insert **"(3) percentage"**.

Page 4, line 6, delete "such projects." and insert **"projects described in subdivision (1)."**

Page 4, between lines 6 and 7, begin a new line block indented and insert:

"(3) Financial incentives for the purchase of fuels produced by a coal gasification facility, including cost recovery and the incentive available under subdivision (2) for new energy generating facilities.

(4) Financial incentives for projects to develop alternative energy sources, including renewable energy projects."

Page 4, line 7, delete "(3)" and insert **"(5)"**.

Page 4, between lines 15 and 16, begin a new paragraph and insert:

"(d) The commission shall issue a preliminary determination of a project's eligibility for the financial incentives described in subsection (a) not later than ninety (90) days after the date of the application."

Page 4, line 16, delete "10." and insert **"12."**

Page 4, line 17, delete "electric" and insert **"energy"**.

Page 4, line 19, after "repowering," insert **"expansion,"**

Page 4, line 27, delete "or acquisition" and insert **"acquisition, or expansion"**.

Page 4, line 27, delete "electric" and insert **"energy"**.

Page 4, line 32, delete "electric" and insert **"energy"**.

Page 4, line 36, delete "of" and insert **"that"**.

Page 4, line 38, delete "costs." and insert **"costs are reasonable and in the public interest."**

Page 4, between lines 38 and 39, begin a new paragraph and insert:

"(e) The commission shall allow an eligible business to recover the costs associated with the purchase of fuels produced by a coal gasification facility if the eligible business provides substantial documentation that the costs associated with the purchase are reasonable and in the public interest."

Page 4, line 39, delete "(e)" and insert **"(f)"**.

Page 4, line 42, delete "(f)" and insert **"(g)"**.

Page 5, line 5, delete "(g)" and insert **"Sec. 13."**

Page 5, line 8, delete "the new electric" and insert **"a new energy"**.

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Page 5, delete lines 10 through 12.

Page 5, between lines 12 and 13, begin a new line block indented and insert:

"(2) The amount of any fuel produced by a coal gasification facility and purchased by the eligible business during the previous month."

Page 5, line 13, delete "(4) Such other information as" and insert **"(3) Any other information"**.

Page 5, line 15, delete "11." and insert **"14."**

Page 5, line 19, delete "IC 8-1-25-9" and insert **"IC 8-1-2.5-9"**.

and when so amended that said bill do pass.

(Reference is to SB 29 as printed January 18, 2002.)

WEATHERWAX, Chairperson

Committee Vote: Yeas 9, Nays 0.

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